

Testimony in Support of House Bill 848

Small Claims – Examination in Aid of Enforcement – Prohibition on Arrest or Incarceration for Failure to Appear

Before the Judiciary Committee: February 10, 2021

House Bill 848 Prohibits an individual from being arrested or incarcerated for failure to respond to certain orders to appear in court relating to an examination in aid of enforcement of a money judgment entered in a small claim action in the District Court; providing for the application of this Act; and generally relating to enforcement of certain money judgments.

My name is Jeffrey Abney and I am a third year student at the University of Maryland-Carey Law School.

During the last year, our Consumer Protection Clinic conducted a study about judgment creditors' use of body attachments in civil debt cases in Maryland. Our findings include the following:

- From January 2015 until December 2020, at the request of judgment creditors, Maryland judges issued at least 765 body attachments to enforce civil judgments against debtors.
- The average judgment in these cases was \$5,069. \$6,000 of a judgment debtors' cash or property is exempt from execution on a judgment. This means that the judgment cannot be collected against this amount of cash or property, and the judgment debtor may retain it. Thus, on average, the amount of the exemption exceeded the amount of the judgment.
- Based on an analysis of zip codes, these judgment creditors disproportionately used body attachments against people of color. The five zip codes that had the highest numbers of body attachments contained 81.24% persons of color. The top twenty zip codes by frequency of body attachments had 81.32% persons of color.
- The people against whom body attachments were used also had lower incomes. The people in the five zip codes that had the highest numbers of body attachments had a median income of \$49,023, well below the state median income level of \$83,242.

Most creditors in the State use wage garnishments or property liens as the debt collection methods of choice.

- The types of creditors that most commonly used body attachments, in descending order of frequency, were finance companies, municipalities, realty companies, credit unions, and homeowner associations.
- Just four attorneys were responsible for over 25% of the body attachments in the State.
- Those municipalities that used body attachments, in descending order of frequency, were Prince George's County (35), Anne Arundel County (11), and Montgomery, Harford, and Howard Counties (each once or twice).

- Arrests on body attachment warrants can occur soon after the issuance of the warrant, or come months or even years later. During these periods of time the person is subject to arrest, most without notice.

As I said, under Maryland law, judgment debtors are entitled to an exemption of \$6,000 of their cash or property. They must, however, affirmatively assert this exemption in court, which many do not have the ability to do effectively by themselves.

There are non-wage sources of funds that automatically are protected from garnishment, including public assistance benefits, workers compensation, supplemental security income, social security benefits, state police pensions, life insurance or annuity proceeds, unemployment insurance benefits, veterans' benefits, and retirement benefits.

Conclusion

In sum, our study shows that judgment creditors are using body attachments against significant numbers of judgment debtors, most of whom are disproportionately lower-income people of color. Many of these judgment debtors either have no assets or have statutorily protected assets, and are still arrested and jailed or made subject to arrests for indefinite periods of time.

I strongly urge the adoption of HB 848/ SB 657.

This testimony is submitted on behalf of the Consumer Protection Clinic at the University of Maryland Carey School of Law, and not by the School of Law or the University of Maryland System.